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STATE OF ALABAMA
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Honorable James R. Seale
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Education, Boards of – Teachers – School
Day – Hours

A local board of education may determine what constitutes the teaching day for purposes of providing teachers with a minimum of 30 minutes of time free of instructional or supervisory responsibilities each teaching day.

Dear Mr. Seale:

This opinion of the Attorney General is issued in response to your request on behalf of the Elmore County Board of Education.

QUESTION

Does the requirement in state law to provide each teacher a minimum of 30 minutes of time free of instructional or supervisory responsibilities each teaching day have to be provided during the time period that students are receiving instruction, or can it be provided during any time period teachers are required to be at work?

FACTS AND ANALYSIS

You provided the following basic background underlying your request:

One of our high schools implemented a modified block schedule whereby students attended school seven periods a day for three days of the school week. On those

days, teachers received a planning period of a minimum of 52 minutes. On the other two days, students attended blocks, and teachers received a planning period of a minimum of 94 minutes on one of those days. . . . On Thursdays, the 1st period of 96 minutes (called the IPlan/Indian period) may be used for student tutoring, makeup work, guidance/intervention, remedial education and other school activities. On many days, this period may be used as a planning period for some teachers as students may be involved in other school activities. In addition, all teachers received a planning period of 30 minutes each day from 3:00-3:30 PM after students are dismissed. Many students remain on campus for activities such as tutoring, athletics, band, and other activities. In summary, the modified block schedule provided all teachers the minimum required 30 minutes each teaching day during the hours of 7:30 AM to 3:30 PM.

. . . .

Several teachers have challenged our interpretation of this statute, which has led us to seek this clarification. The question has arisen regarding the definition of "teaching day" as used in this provision. Is the "teaching day" considered the time when students are present and being instructed on campus, or does it refer to the time when teachers are present performing instructional or other duties, irrespective of the presence of students? That is, does the 30 minutes of "time free of instructional or supervisory responsibilities," otherwise known as the "planning period," have to be during the time when students are present on campus, or can it be scheduled during the teacher's work day, even if students are not present on campus?

"'Free time' is that time during an educator's day when he or she has no students and is . . . made part of the scholastic day by section 16-1-1(1) of the Code of Alabama. . . ." Opinion to Honorable Katy Smith Campbell, Attorney, Lowndes County Board of Education, dated April 12, 2002, A.G. No. 2002-212, *quoting* opinion to Honorable Thomas L. Stewart, Attorney for the Birmingham Board of Education, dated March 21, 2002, A.G. No. 2002-180.

Section 16-1-1(l) of the Code of Alabama states, in pertinent part, as follows:

For purposes of this title, the following words and phrases shall have the meanings respectively ascribed to them by this section:

(1) SCHOLASTIC DAY. Shall not be less than six hours of actual teaching, exclusive of all recesses or intermission periods unless otherwise ordered by the county or city board of education. County and city boards of education and the Alabama Institute for Deaf and Blind shall be required to provide each teacher employed a minimum of 30 minutes of time free of instructional or supervisory responsibilities each teaching day. This provision shall not be interpreted to deprive any teacher of benefits exceeding the minimum requirements of this act.

ALA. CODE § 16-1-1(l) (2013).

The plain language of the statute requires a local board of education to provide teachers with free time consisting of “a minimum of 30 minutes of time free of instructional or supervisory responsibilities each teaching day.” *Id.* The statute, however, does not define “teaching day” or otherwise dictate the time period during which the free time is to be provided. Likewise, the State Superintendent of Education has not issued any regulations or other administrative directives governing the definition of a teaching day for purposes of administering that portion of the statute.

Generally, the local boards of education maintain broad general authority over the administration and supervision of local schools, including the authority to prescribe regulations governing the operation of local schools. ALA. CODE § 16-8-8, § 16-11-9 (2013). Therefore, in the absence of a state law, state regulation, or an administrative directive from the State Superintendent of Education designating the time period during which a teacher must be provided free time, it is up to each local board of education to determine what will constitute the teaching day for purposes of providing teachers with “a minimum of 30 minutes of time free of instructional or supervisory responsibilities each teaching day.” ALA. CODE § 16-1-1(l) (2013). Choosing to provide those 30 minutes during a time period when students are not receiving instruction would not run afoul of the statute’s requirements.

CONCLUSION

Local boards of education are required to provide a minimum of 30 minutes of time free of instructional or supervisory responsibilities each teaching day. It is up to each local board of education to determine what will constitute the teaching day for purposes of providing teachers with such free time.

I hope this opinion answers your question. If this Office can be of further assistance, please contact Juliana Dean, Legal Counsel, Alabama Department of Education.

Sincerely,

LUTHER STRANGE
Attorney General
By:

A handwritten signature in cursive script that reads "Brenda F. Smith".

BRENDA F. SMITH
Chief, Opinions Division

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